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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,482	03/26/2004	Etienne Kissling	7863.13	9794
25265	7590	09/20/2004	EXAMINER	
MARK D MILLER KIMBLE, MACMICHAEL & UPTON 5260 NORTH PALM AVENUE SUITE 221 FRESNO, CA 93704			SIPOS, JOHN	
			ART UNIT	PAPER NUMBER
			3721	
DATE MAILED: 09/20/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/810,482

Applicant(s)

KISSLING, ETIENNE

Examiner

John Sipos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/15/04</u> . | 6) <input type="checkbox"/> Other: ____ |

REJECTIONS OF CLAIMS BASED ON PRIOR ART

The following is a quotation of 35 U.S.C. ' 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Massey (3,451,187). The patent to Massey shows a packaging machine comprising of a support structure for a film supply on the side of the machine, rollers to grip and feed the film from the supply, a plurality of product dispensers 18, a longitudinal heat sealers 15 that from a plurality of seals in the film, a plurality of blades 61 aligned with the heat sealers to cut the sealed film into a plurality of strips, opposing cross heat sealers 20 and cross blades 75,76 to cut the film into individual bags. The longitudinal sealers, the cross sealers and the cross cutters reciprocate in the direction of the film movement.

The use of double film supply rolls (claims 1,9&17), independent reciprocating mechanisms (claims 2,10&17), opposing feed rollers (claims 3&13), and pumps (claims 5&15) are well known in the art and would have been obvious modification for their inherent benefits.

Claims 1-20 are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Soleri (6,761,016). The patent to Soleri shows a packaging machine comprising of a support structure for a pair of film supply rolls on the side of the machine, rollers to grip and feed the film from the supply (Figure 6), a plurality of product dispensers (column 6, line 113-23), a

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longitudinal heat sealers 20 that from a plurality of seals in the film, a plurality of blades 21 aligned with the heat sealers to cut the sealed film into a plurality of strips, opposing cross heat sealers 22 and cross blades 18 to cut the film into individual bags. The longitudinal sealers and the cross cutters reciprocate in the direction of the film movement. Little patentable weight is given to the reciprocation of the cross sealers, since the claims merely recite that the cross sealers are "capable" to be reciprocated and not any mechanism to actually reciprocate them.

Furthermore, the use of longitudinally reciprocating cross sealers that move with the film instead of rotating sealers that move with the film are well known in the art and their substitution would have been obvious to one skilled in the art. Regarding claims 3 and 13, Soleri shows opposing feed rollers in Figure 1 above the longitudinal sealers 20.

Although Soleri may be silent as to the reciprocating mechanisms, the use of independent reciprocating/driving mechanisms (claims 2,10&17) for different machine units is well known in the art and would have been obvious modification to enable separate control of each unit.

ADDITIONAL REFERENCES CITED

The cited prior art is made of record but has not been relied upon in the rejection of claims. However, the prior art is considered pertinent to applicant's disclosure.

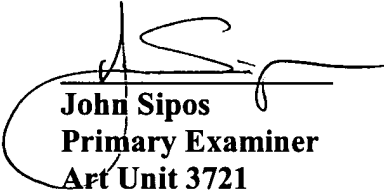
Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **(703) 308-1882**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 872-9306**.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at (703) 308-2187.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.



John Sipos
Primary Examiner
Art Unit 3721

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